NYTimes MAY 9 1972

An American Emperor

By TOM WICKER

IN THE NATION

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admiringly the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision was Richard Nixon's.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of noblesse oblige as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which this war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent and which does not provide a precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; fortunately, there is no sensible military rationale for doing so. Nevertheless, the fact that the President has not so chosen does not alter the fact that it was his choice; sensible or not, he could order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

Included in version carried by New Orleans States-Item, 10 May 72:

.... "Hanoi" or "the enemy", but the decision to mine North Vietnamese harbors was Richard Nixon's and Richard Nixon's alone.

And when Mr. Nixon ....

Included in version carried by N.O.S.I.:

.... nuclear weapons in Southeast Asia; nevertheless, mining the North Vietnamese harbors risks nuclear confrontation with the Soviet Union. This was not inevitable, but the President's choice. Sensible or not, he could order ....